BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of: Benny et al.	:	Before the Examiner: Ramy Osman
Serial No.: 09/876,090	:	Group Art Unit: 2157
Filed: June 7, 2001	:	
	:	IBM Corp.
	:	Intellectual Property Law
Title: ENTERPRISE SERVICE	:	11400 Burnet Road
DELIVERY TECHNICAL FRAMEWORK	:	Austin, Texas 78758

APPEAL BRIEF

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

I. REAL PARTY-IN-INTEREST

The real party-in-interest is International Business Machines Corporation, which is the assignee of the entire right and interest in the present Application.

CERTIFICATION UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence (along with any item referred to as being attached hereto) is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on 4-27, 2006.

Toni Stanley
Signature

Toni Stanley
(*Printed name of person certifying*)

II. RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences known to appellants, the appellants' legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 22-25 are pending in the Application. Claims 22-25 stand rejected.

IV. STATUS OF AMENDMENTS

No amendments were made to the claims subsequent to the final rejection, having a mailing date of November 30, 2005.

V. SUMMARY OF THE INVENTION

The traditional approach to managing computer systems has been to design and deploy the management system based primarily on which particular type of hardware platform that the subject systems execute on. This is a purely technology based approach to systems management which does not align the management of the system to the business functionality of the system or the business requirements of the user of the system. [Page 2, lines 3-12.]

Some companies derive a significant percentage of their revenues from strategic outsourcing services provided to other companies, such as banks and other financial institutions, which are largely dependent upon information technology to support their products and services to their customers. After such a bank contracts with the strategic outsourcing services of a service provider, it will then go in and hire most of the staff who had been previously running the information technology shop at the bank, and attempt to consolidate equipment and operations more efficiently. The advantage that the outsourcing company can bring to this situation is that it has invested considerable research and development into defining processes around these

type of IT disciplines, such as data storage and output management, system administration, event management, paging and escalation, security management, operations automation, change orders, etc. [Page 2, line 13 – page 3, line 7.]

The problem with this process in general is that it has to be reinvented each time the outsourcing company goes into a new outsourcing arrangement with a new customer. There is some advantage that the outsourcing company can employ by having the same employees cover the information technology needs of a multiple of companies by sharing their time among those companies. However, the design of the outsourcing operation still is often done on an ad hoc basis, dependent upon the particular systems in place at the new customer. [Page 3, lines 11-22.]

The present invention provides a way for an outsourcing company to leverage from the knowledge gained while performing such outsourcing services from one client to the next. [Page 4, lines 1-3.]

Referring to FIGURE 2, a company will decide that they wish to no longer completely support their Information Technology (IT) environment with their own people, and will turn to an outsource service provider (e.g., IBM) to request that IBM (step 201) begin to provide two specific services for their environment: Problem Management (identifying and solving problems with the environment, discovering root cause, recommending changes, etc.) and Event Management (tied to Problem Management, but focused on immediate response, both automated and manual, to electronic events that are detected in the environment - e.g., a server goes down, creating an electronic event indicating that it can no longer be "seen" on the network). In order to provide these services, IBM will build a Delivery Framework 320 describing what people, processes and tools (and identifying information requirements) that will be deployed to provide the desired functionality. [Page 31, lines 9-20.]

The next step (step 202) identifies the specific Solution Scope 317 as described in the contract with the customer, and based on common practices for

delivering certain types of services. For Problem Management and Event Management, this entails identifying hours of service, and which components (in general terms, such as "all NT servers") which are in scope, etc. The next step (step 203) identifies the Specific Solution Requirements 314 for this solution. IBM may go out to the customer site and inventory every piece of equipment that is in the scope of the contract, including servers, workstations, network routers, hubs, etc. FIGURE 9 illustrates an example of such inventory for "in scope" hardware. [Page 32, lines 3-11.]

At this point, each component is mapped (step 204) to the lowest level Architectural Building Block (ABB) 308 described in the ESD Technical Model (ESDTM) 301. FIGURE 10 illustrates an example of the lowest level ABBs 308 available in the ESD Technical Model 301. FIGURE 11 illustrates an example of the mapping of each component in the inventory (FIGURE 9) to the ABBs (FIGURE 10). For example, there perhaps is a building block identified as "Workstation". Each workstation is identified as being an instance of that ABB 308. In addition to being an instance of ABBs 308, each inventoried component will also have certain attributes which will also be captured. Again using the workstation example, in the ABB definition for a "Workstation," it will be indicated that each workstation has attributes such as an Operating System, a CPU, a Disk Drive, a Network Card, etc. Each of these attributes will be captured. [Page 32, lines 12-23.]

As well as categorizing each component in the customer environment and assigning/identifying attributes, the relationships (Design Object Relationships 312) between these components are identified (step 205). For example, a workstation is connected to a hub, which is one type of relationship. Another relationship is what application a workstation is implemented to support for a customer. FIGURE 12 illustrates an example of such an identified Design Object Relationship 312 for the contract with the customer. [Page 33, lines 1-7.]

Once the entire customer environment in terms of ABBs have been described, then the systems management ABBs in the ESDTM are looked at that are required to provide the specific Problem and Event Management services. For example, it will be known that a component described by an ABB will be needed to provide the capability to store and forward events. FIGURE 13 illustrates an identification of which ABBs 308 from the Technical Model 301 are needed to deliver the "in scope" services of the customer. FIGURE 14 illustrates examples of ABB Lists and Relationships indicated in FIGURE 13. [Page 33, lines 8-15.]

When all of the ABBs are identified that are needed to provide Problem and Event services, then all of the ABBs are mapped describing the customer environment, and all the systems management ABBs in the model together, based on the relationships of the customer ABBs and the relationships contained in the model. At this point, there is a consistent model for the entire systems management solution for Problem and Event Management for the customer, that is also consistent with the overall model (ESDTM) for delivering service. This complete model is made up of Design Objects 313 based on logical groupings of ABBs 308. FIGURE 15 illustrates identified Design Objects 3/3 for the "in scope" services based on logical groupings of ABBs 308 for the customer example. [Page 33, line 16 – page 34, line 2.]

The consistency of the Technical Model 301 is ensured through maintaining the groupings of the ABBs 308 identified in the Logical Level 0 310 and 1 311 Models. Those models 310, 311, the relationships 309 and the ABBs 308 are all designed based on a common set of Principles 307, identified to satisfy Key Requirements 306, derived from the ESD Technical Architecture Scope 305 and Objectives 304, which all are developed to drive toward the ESD Technical Architecture Vision 303. [Page 34, lines 3-9.]

With the complete set of Design Objects 313 identified for the customer, specific Tool Selection Criteria 315 are defined (step 206). For example, from the Technical Model 301, it is known that all the systems management tools selected had

to be capable of working on all of the platforms (servers, workstations, etc.) that are in the customer environment. From the attributes identified in the Design Objects 313, it is known what that list of platforms is, so criteria are identified that state that the "tool for storing and forwarding events must execute on Windows 95, Window NT, and AIX Operating systems, etc." [Page 34, lines 10-17.]

With the defined Tool Selection Criteria 315, all the specific tools (including hardware and software) are selected, and based on the Specific Solution Requirements 314, and Solution Scope 317, in step 207, a Detailed Technical Design 316 for the systems management environment is developed. FIGURE 16 illustrates an example of such Tool Selection. In this example, a design object is identified that includes a mainframe, a data store, a hub and a management server. For each of these parts of the design object, it is known how they relate, or are combined to provide functionality. Based on the servers needed to be provided (in this example, problem management and event management) it is known what relationships between these components are required. These requirements are used to evaluate available tools to select tools that satisfy all the relational requirements contained in the design object. FIGURE 17 illustrates an example of a detailed Technical Design with Design Objects for the example. When it is known that all of the requirements have been satisfied dictated by the relationships described in the design objects by selecting all the appropriate tools (software and hardware), a consistent, low level design can be created of the ESM solution. By maintaining all relationships, integration is ensured into the overall systems management environment. This example illustrates components (such as Netview Server, Tivoli Enterprise Console, hubs, routers, etc.) that would be selected and deployed based on the method. [Page 34, line 18 – page 35, line 13.]

By using this method, a specific Technical Framework 302 is designed for the customer that satisfies all of their requirements for Problem and Event Management. [Page 34, lines 14-15.]

VI. ISSUE

Claims 22-25 stand rejected under 35 U.S.C. § 102(e) as being anticipated by *Guheen et al.* (U.S. Patent No. 6,957,186).

VII. ARGUMENT

Claims 22-25 are not anticipated by *Guheen*. For a claim to be anticipated under 35 U.S.C. § 102, each and every element of the claim must be found within the cited prior art reference.

A. General

Guheen merely discloses displaying a graphical representation of existing network components. As will be further asserted below, *Guheen* merely is concerned with the existing components within a network or system, and is not in any way concerned with the creation of a technical framework for use in delivering a specific set of information technology services for a customer.

The present invention as claimed, determines a solution scope for a technical framework to be created, maps existing equipment to architectural building blocks in a technical model, creates a list of design objects as a function of the solution scope for the technical framework, and then designates relationships between the design objects as a function of that solution scope and services to be provided to the customer. *Guheen* might be useable in a system as recited in the present application, but it would be merely used as a graphical or pictorial representation of existing equipment and components, which could then be potentially used by the system of the present invention to create a technical framework for use in delivering a specific set of information technology services for a customer. Thus, a deficiency in the teachings of *Guheen* is that it does not go to the next steps as recited in the claims.

B. First Claim Element

i. Claim Language

The claims specifically recite the determination of a solution scope for the technical framework to be created. The solution scope is further recited as being guided by an information technology services contract with the customer. Yet still further, the claims recite that the solution scope is based on common practices for delivering certain types of information technology services.

ii. Cited Language in *Guheen*

Step 31a in *Guheen* merely teaches creating a database that includes a listing of components within an existing network. The Abstract of *Guheen* merely describes how *Guheen* teaches the creation and display of a pictorial representation of an existing system having a plurality of components. It is further described how such a pictorial representation may display how such existing components have deliverable features for building, management, and support information. Column 2, lines 1-35 cited by the rejection is the entirety of *Guheen*'s Summary of the Invention, which merely reiterates what is briefly noted in the Abstract that components of an existing system are pictorially depicted on a display system to convey information regarding such existing components. Such pictorial depictions may describe how such existing components deliver services and how they are related to each other, and also may display information relating to the building, managing, and supporting of such existing system components. Column 9, lines 1-35 describes how a database may be created to list redundant or omitted components, which components may correspond to vendor services that are not available to provide such services, and may provide a listing of redundant vendor services. Again, these listings are all related to merely displaying information about existing system components. Column 10, lines 1-35 describes how the pictorial representation may depict priorities between components, and how certain components may be dependent upon other components. Column 30, lines 1-25 describes the depiction of the organization of management teams for

handling certain areas within a development environment. This language also describes an introduction of a new business capability and how it fits within the environment. Thus, Figure 53 described in the cited language of *Guheen* is for depicting the characteristics of the people within the management organization so that the right choices for tools and training can be made for the set of management teams. Claim 1 in *Guheen* recites a method for visualizing various components of a web architecture framework using a display device to facilitate assessment of the components of a system. Displayed are such items as features of products or services, components within a framework, coverage provided by products or services, strengths of products or services, and weaknesses of products or services.

iii. Claim Elements Not Anticipated

There is nothing described in these cited passages (see section B.ii. above) about creating a solution scope for the technical framework for use in delivering a specific set of information technology services for a customer. Further, there is nothing in this language describing or suggesting that the solution scope is guided by an information technologies services contract with the customer. Moreover, the language in the claims reciting that the solution scope is based on common practices for delivering certain types of information technology services has not in any way been specifically addressed in the rejection. These portions of *Guheen* do not in any way teach or suggest such language within the claims.

Furthermore, the rejection does not explain with any specificity how the cited language in *Guheen* teaches the limitations recited in the claims. There is not even a matching up of terms in the claims to terms in *Guheen*. For this reason alone, the rejection fails to put forth a *prima facie* case of anticipation.

C. Second Claim Element

i. Claim Language

The next step in the claims recites the mapping of customer's existing equipment to lowest level abstractions of architectural building blocks in a technical model, wherein the technical model describes people, processes, tools and information used to deliver specific services to customers. The architectural building blocks comprise architectural components that are sufficiently modular and bounded to be described as self-contained entities.

ii. Cited Language in *Guheen*

In rejecting these claim limitations, the rejection refers to elements 31b and 31c in Figure 3 of *Guheen*. Step 31b teaches creating a second database, which includes a listing of all services provided by vendors that correspond to the components of that area of the framework. Step 31c is comparing the listing of the components with the listing of the vendor services corresponding to those components. Thus, step 31c compares the database created in step 31a to the database created in step 31b. This is a comparison of the components of an existing network framework to a list of services provided by vendors that correspond to such components.

Column 2, lines 1-35 cited by the rejection is the entirety of *Guheen*'s Summary of the Invention, which merely reiterates what is briefly noted in the Abstract that components of an existing system are pictorially depicted on a display system to convey information regarding such existing components. Such pictorial depictions may describe how such existing components deliver services and how they are related to each other, and also may display information relating to the building, managing, and supporting of such existing system components. Column 9, lines 1-35 describes how a database may be created to list redundant or omitted components, and which components may correspond to vendor services that are not available to provide such services, and may provide a listing of redundant vendor services. Again,

these listings are all related to merely displaying information about existing system components. Column 30, lines 1-25 describes the depiction of the organization of management teams for handling certain areas within a development environment. This language also describes an introduction of a new business capability and how it fits within the environment. Thus, Figure 53 described in the cited language of *Guheen* is for depicting the characteristics of the people within the management organization so that the right choices for tools and training can be made for the set of management teams. Column 56, lines 10-67 merely describes in an abstract manner how to go about a design processes, how the quality of design process affects the magnitude of the efforts required, how parts of a design process may occur after a system test starts, how to sequence tasks, and how usability can be used in a system design. Claim 1 in *Guheen* recites a method for visualizing various components of a web architecture framework using a display device to facilitate assessment of the components of a system. Displayed are such items as features of products or services, components within a framework, coverage provided by products or services, strengths of products or services, and weaknesses of products or services.

iii. Claim Elements Not Anticipated

Contrary to the rejection, there is no reference in the steps 31b and 31c to lowest level abstractions of architectural building blocks in a technical model, wherein the technical model describes people, processes, tools and information used to deliver specific services to a customer. Furthermore, the other language cited above in section C.ii. does not teach the technical model describing people, processes, tools and information used to deliver specific services to customers. Nor does it teach architectural building blocks comprising architectural components that are sufficiently modular and bounded to be described as self-contained entities.

Further, the rejection does not explain with any specificity how the cited language in *Guheen* teaches the limitations recited in the claims. There is not even a

matching up of terms in the claims to terms in *Guheen*. For this reason alone, the rejection fails to put forth a *prima facie* case of anticipation.

D. Third Claim Element

i. Claim Language

The next limitation within the claims creates a list of design objects as a function of the solution scope for the technical framework, wherein the design objects are based on logical groupings of architectural building blocks, including software and hardware components.

ii. Cited Language in *Guheen*

The rejection has cited steps 31d and 31e in Figure 3 of *Guheen*. Step 31d creates of list of components not being provided by a vendor service whereas step 31e creates a list of components being provided by more than one vendor services. Column 14, lines 40-67 describes Figures 34-50 of *Guheen*. Figure 34 is described as an exemplary data page providing more detail for selected components of the web architecture framework. What may be further illustrated are more details about each of these components and whether certain services provide operations associated with a component. Figures 35-50 illustrate exemplary architectures of various components of the systems of business 1, business 1 offering a variety of products in the hardware, networking, architecture, infrastructure, security and development tool areas for building applications and systems. Column 23, lines 25-67 describes object oriented programming in general. Column 30, lines 1-25 of *Guheen* is described above in section C.ii. Column 38, lines 10-30 describes information management 202. This language describes that services provided by such an information management team may be done in accordance with a service level agreement that defines how quickly a new data element is created and how repository changes are communicated, and more generally defines the division of responsibilities between the information management team and the other project teams at a detailed level.

iii. Claim Elements Not Anticipated

Steps 31d and 31e have nothing to do with creating a list of design objects as a function of the solution scope for the technical framework wherein the design objects are based on logical groupings of architectural building blocks. Further, none of the other cited language (see section D.ii.) provides any description of a list of design objects created as a function of the solution scope for the technical framework, wherein the design objects are based on logical groupings of architectural building blocks.

Furthermore, the rejection does not explain with any specificity how the cited language in *Guheen* teaches the limitations recited in the claims. There is not even a matching up of terms in the claims to terms in *Guheen*. For this reason alone, the rejection fails to put forth a *prima facie* case of anticipation.

E. Fourth Claim Element

i. Claim Language

The next element in the claims recites the designations of relationships between the design objects as a function of the solution scope and the specific set of information technology services for the customer.

ii. Cited Language in *Guheen*

The rejection has cited Figure 4 of *Guheen*. Figure 4 is merely concerned with displaying a pictorial representation of a system and its components, along with indicia coding the components of the system in order to indicate required components for the implementation of the system.

Column 13, lines 1-45 of *Guheen* describes the depiction of alliances between business entities, the comparison of databases for services of vendors, and further describes operation 26 described in Figure 1, which is indicia coding of components of the system in order to convey information pertaining to which components of a system products or services relate. Column 30, lines 40-67 describes statements

defining roles of positions in a development organization and list management teams within an IDEA model that supports the efforts of a system building team. Column 50, lines 1-30 describes service level agreements between the environment management team and developers, which set forth how technical support is to be provided.

iii. Claim Elements Not Anticipated

The display of components of a system including indicating what components are required (as taught by Figure 4 in *Guheen*) is not the same as designating relationships between design objects as a function of the solution scope in the specific set of information technology services for the customer, wherein the design objects are a function of the solution scope for the technical framework and are based on logical groupings of architectural building blocks, including software and hardware components, wherein the solution scope is guided by an information technology services contract with the customer and is based on common practices for delivering certain types of information technology services.

None of the other cited language (see section E.ii.) is describing designating relationships between design objects as a function of the solution scope and the specific set of information technology services for the customer.

Further, the rejection does not explain with any specificity how the cited language in *Guheen* teaches the limitations recited in the claims. There is not even a matching up of terms in the claims to terms in *Guheen*. For this reason alone, the rejection fails to put forth a *prima facie* case of anticipation.

F. Claim 23

Claim 23 recites an additional element as follows:

> a detailed technical design developed for the information technology services for the customer based on tool selection criteria that are dependent upon the list of design objects and the designated relationships between the design objects.

The rejection does not in any way address this claim language. Therefore, the rejection fails to prove a *prima facie* case of anticipation in rejecting claim 23.

G. Conclusion

For the foregoing reasons the claims are allowable over the prior art.

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IN THE CLAIMS

22. A method for creating a technical framework for use in delivering a specific set of information technology services for a customer, comprising the steps of:

determining a solution scope for the technical framework to be created, the solution scope guided by an information technology services contract with the customer, the solution scope based on common practices for delivering certain types of information technology services;

mapping the customer's existing equipment to lowest level abstractions of architectural building blocks in a technical model, the technical model describing people, processes, tools and information used to deliver specific services to customers, the architectural building blocks comprising architectural components that are sufficiently modular and bounded to be described as self-contained entities;

creating a list of design objects as a function of the solution scope for the technical framework, the design objects based on logical groupings of architectural building blocks, including software and hardware components; and

designating relationships between the design objects as a function of the solution scope and the specific set of information technology services for the customer.

23. A technical framework for use in delivering a specific set of information technology services for a customer, comprising the steps of:

a solution scope determined for the technical framework to be created, the solution scope guided by an information technology services contract with the customer, the solution scope based on common practices for delivering certain types of information technology services;

a mapping of the customer's existing equipment to lowest level abstractions of architectural building blocks in a technical model, the technical model describing

people, processes, tools and information used to deliver specific services to customers, and the architectural building blocks comprising architectural components that are sufficiently modular and bounded to be described as self-contained entities;

a list of design objects created as a function of the solution scope for the technical framework, the design objects based on logical groupings of architectural building blocks, including software and hardware components;

designated relationships between the design objects as a function of the solution scope and the specific set of information technology services for the customer; and

a detailed technical design developed for the information technology services for the customer based on tool selection criteria that are dependent upon the list of design objects and the designated relationships between the design objects.

24. A computer program product for storage on a computer readable medium and operable for creating a technical framework for use and delivering a specific set of information technology services for a customer, comprising the program steps of:

determining a solution scope for the technical framework to be created, the solution scope guided by an information technology services contract with the customer, the solution scope based on common practices for delivering certain types of information technology services;

mapping the customer's existing equipment to lowest level abstractions of architectural building blocks in a technical model, the technical model describing people, processes, tools and information used to deliver specific services to customers, and the architectural building blocks comprising architectural components that are sufficiently modular and bounded to be described as self-contained entities;

creating a list of design objects as a function of the solution scope for the technical framework, the design objects based on logical groupings of architectural building blocks, including software and hardware components; and

designating relationships between the design objects as a function of the solution scope and the specific set of information technology services for the customer.

25. A data processing system operable for creating a technical framework for use in delivering a specific set of information technology services for a customer, comprising:

a processor;

an input device;

an output device;

a memory unit; and

a bus system for coupling the processor to the input device, output device, and memory unit, the processor further comprising:

circuitry for determining a solution scope for the technical framework to be created, the solution scope guided by an information technology services contract with the customer, the solution scope based on common practices for delivering certain types of information technology services;

circuitry for mapping the customer's existing equipment to lowest level abstractions of architectural building blocks in a technical model, the technical model describing people, processes, tools and information used to deliver specific services to customers, and the architectural building blocks comprising architectural components that are sufficiently modular and bounded to be described as self-contained entities;

circuitry for creating a list of design objects as a function of the solution scope for the technical framework, the design objects based on logical groupings of architectural building blocks, including software and hardware components; and

circuitry for designating relationships between the design objects as a function of the solution scope and the specific set of information technology services for the customer.

EVIDENCE APPENDIX

No evidence was submitted pursuant to §§1.130, 1.131, or 1.132 of 37 C.F.R. or of any other evidence entered by the Examiner and relied upon by Appellant in the Appeal.

RELATED PROCEEDINGS APPENDIX

There are no related proceedings to the current proceeding.